



General Assembly

February Session, 2016

***Raised Bill No. 460***

LCO No. 3186



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING COMPENSATION FOR WRONGFUL  
INCARCERATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102uu of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective from passage*):

3 (a) A person is eligible to receive compensation for wrongful  
4 incarceration if:

5 (1) Such person has been convicted by this state of one or more  
6 crimes, of which the person was innocent, has been sentenced to a term  
7 of imprisonment for such crime or crimes and has served all or part of  
8 such sentence; and

9 (2) (A) Such person's conviction was vacated or reversed and (i) the  
10 complaint or information dismissed on grounds of innocence, or (ii)  
11 the complaint or information dismissed on a ground consistent with  
12 innocence, provided such person proves actual innocence to the  
13 Claims Commissioner in the hearing conducted pursuant to subsection

14 (c) of this section; or

15 (B) Such person's conviction was vacated or reversed and the  
16 complaint or information dismissed on a ground citing negligence or  
17 misconduct by any officer, agent, employee or official of the state or  
18 any political subdivision of the state that contributed to such person's  
19 arrest, prosecution, conviction or incarceration, without the court  
20 finding actual innocence, provided such decision is final.

21 (b) A person who meets the eligibility requirements of subsection (a)  
22 of this section may present a claim against the state for such  
23 compensation with the Claims Commissioner in accordance with the  
24 provisions of chapter 53. The provisions of said chapter shall be  
25 applicable to the presentment, hearing and determination of such  
26 claim except as otherwise provided in this section.

27 (c) At the hearing on such claim, such person shall have the burden  
28 of establishing by a preponderance of the evidence that such person  
29 meets the eligibility requirements of subsection (a) of this section, and  
30 actual innocence if the complaint or information was dismissed on a  
31 ground consistent with innocence or a ground citing negligence or  
32 misconduct by any officer, agent, employee or official of the state or  
33 any political subdivision of the state that contributed to such person's  
34 arrest, prosecution, conviction or incarceration, without the court  
35 finding actual innocence. In addition, such person shall present  
36 evidence as to [the damages suffered by such person which may  
37 include, but are not limited to, claims for loss of liberty and enjoyment  
38 of life, loss of earnings, loss of earning capacity, loss of familial  
39 relationships, loss of reputation, physical pain and suffering, mental  
40 pain and suffering and attorney's fees and other expenses] (1) the  
41 person's age, income, vocational training and level of education at the  
42 time of conviction, (2) loss of familial relationships, (3) damage to  
43 reputation, (4) the severity of the crime for which such person was  
44 convicted and whether such person spent any time on death row, (5)  
45 whether such person was required to register pursuant to section 54-

46 251 or 54-252, and for what length of time such person complied with  
47 the registration requirements of chapter 969, and (6) any other  
48 damages such person may have suffered arising from or related to  
49 such person's arrest, prosecution, conviction and wrongful  
50 incarceration.

51 (d) (1) If the Claims Commissioner determines that such person has  
52 established such person's eligibility under subsection (a) of this section  
53 by a preponderance of the evidence, the Claims Commissioner shall  
54 order the immediate payment to such person of compensation for such  
55 wrongful incarceration in an amount determined pursuant to  
56 subdivision (2) of this subsection, unless such person requests, in  
57 accordance section 4-154, that the General Assembly review such claim  
58 for the sole purpose of confirming or modifying the amount of the  
59 award determined by the Claims Commissioner, in which case the  
60 General Assembly shall review and dispose of any such claim in  
61 accordance with section 4-159. If the General Assembly modifies the  
62 amount of the claim, the General Assembly may award any amount  
63 the General Assembly deems just and reasonable.

64 (2) In determining the amount of such compensation, the Claims  
65 Commissioner shall [consider] award an amount based on the median  
66 state income of each year such person was incarcerated, adjusted for  
67 inflation using the consumer price index for urban consumers,  
68 provided the amount for any partial year shall be prorated in order to  
69 compensate only for the portion of such year in which such person was  
70 incarcerated. The Claims Commissioner may increase or decrease the  
71 award amount by twenty-five per cent based on an assessment of  
72 relevant factors including, but not limited to, the evidence presented  
73 by the person under subdivisions (1) to (6), inclusive, of subsection (c)  
74 of this section. [as to the damages suffered by such person and  
75 whether any]

76 (3) In the case where the person's conviction was vacated or  
77 reversed and the complaint or information dismissed on a ground

78 citing negligence or misconduct by any officer, agent, employee or  
79 official of the state or any political subdivision of the state contributed  
80 to such person's arrest, prosecution, conviction or incarceration,  
81 without the court finding actual innocence, and such person failed to  
82 prove actual innocence by a preponderance of the evidence presented  
83 pursuant to subsection (c) of this section, the Claims Commissioner  
84 shall reduce the award amount calculated pursuant to subdivision (2)  
85 of this subsection by fifty per cent.

86 (e) In addition to the compensation paid under subsection (d) of this  
87 section, the Claims Commissioner may order payment for the expenses  
88 of employment training and counseling, tuition and fees at any  
89 constituent unit of the state system of higher education and any other  
90 services such person may need to facilitate such person's reintegration  
91 into the community.

92 (f) Any person claiming compensation under this section based on a  
93 pardon that was granted or the dismissal of a complaint or information  
94 that occurred before October 1, 2008, shall file such claim not later than  
95 two years after October 1, 2008. Any person claiming compensation  
96 under this section based on a pardon that was granted or the dismissal  
97 of a complaint that occurred on or after October 1, 2008, shall file such  
98 claim not later than two years after the date of such pardon or  
99 dismissal.

100 (g) [Nothing in this section shall be construed to prevent such  
101 person from pursuing] No person compensated pursuant to this  
102 section shall be allowed to pursue any other action or remedy at law or  
103 in equity [that such person may have] against the state and any  
104 political subdivision of the state and any officer, agent, employee or  
105 official thereof arising out of such wrongful conviction and  
106 incarceration for which such person was so compensated.

<p>This act shall take effect as follows and shall amend the following sections:</p>
--

Section 1	<i>from passage</i>	54-102uu
-----------	---------------------	----------

***Statement of Purpose:***

To amend the procedure for compensating wrongfully incarcerated persons to require the Claims Commissioner to employ a formula to determine awards, and that such awards be decreased when the claim is based on a vacated or reversed conviction where the complaint or information was dismissed on a ground citing negligence or misconduct by any officer, agent, employee or official of the state or any political subdivision of the state that contributed to such person's arrest, prosecution, conviction or incarceration, and such person could not prove actual innocence to the Claims Commissioner.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*